



APPROVED

Movant shall serve copies of this ORDER on any pro se parties, pursuant to CRCP 5, and file a certificate of service with the Court within 10 days.

Norman D. Haglund
District Court Judge

DATE OF ORDER INDICATED ON ATTACHMENT

FILED Document

CO Denver County District Court 2nd JD

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Review Clerk: Rebecca Archuleta

<p>DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, Colorado 80202</p> <hr/> <p>STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL,</p> <p>Plaintiff,</p> <p>v.</p> <p>XENTEL, INC., a Delaware corporation, and XENTEL AMERICA, INC., a Delaware corporation,</p> <p>Defendants.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorneys for Plaintiff: JOHN W. SUTHERS Attorney General JAN M. ZAVISLAN, 11636* Deputy Attorney General</p> <p>1525 Sherman Street, 5th Floor Denver, CO 80203 (303) 866-5079 (303) 866-4916 Fax *Counsel of Record</p>	<p>Case No.: 2006CV9437 Courtroom 19</p>
<p align="center">STIPULATED FINAL JUDGMENT AS TO ALL DEFENDANTS</p>	

Plaintiff, the State of Colorado, upon relation of John W. Suthers, Attorney General for the State of Colorado, by and through undersigned counsel, and Defendants Xentel, Inc. and Xentel America, Inc., through their undersigned counsel, having each consented to the entry of this Stipulated Final Judgment without trial or other adjudication of fact or law herein, and the Court, having considered this matter and being fully advised in the premises, **FINDS, CONCLUDES AND ORDERS AS FOLLOWS:**

JURISDICTION

1. This Court has jurisdiction over the subject matter of this action and the parties hereto, and the Complaint states claims upon which relief can be granted under the Colorado Charitable Solicitations Act, § § 6-16-101, et seq., C.R.S. (2007) (“CSSA”), and the Colorado

Consumer Protection Act, § § 6-1-101, et seq., C.R.S. (2007) (“CPPA”). Venue is proper in the City and County of Denver, State of Colorado.

2. This Court is authorized to issue a permanent injunction and other relief pursuant to §§ 6-1-110(1), 6-1-112(1), and 6-1-113(4) (2007) of the CCPA and § 6-16-111(5) of the CCSA.

PERMANENT INJUNCTION

3. Defendants and their officers, directors, employees, agents, and independent contractors, with notice of this Stipulated Final Judgment, are permanently enjoined from the following:

a. failing to comply with the statutory requirements regarding the filing of Solicitation Notices, which requirements are detailed in § 6-16-104.6(7), including any future amendments thereto;

b. conducting any solicitation campaign in Colorado for a charitable organization before the expiration of fifteen days after a completed Solicitation Notice for that campaign is approved by the Colorado Secretary of State; and

c. failing to comply with the statutory requirements regarding the filing of financial reports of any campaigns conducted by Defendants, which requirements are detailed in § 6-16-104.6(9), including any future amendments thereto.

4. In order to comply with paragraph 3, Defendants shall establish formal policies and procedures, subject to approval by the Colorado Attorney General, including necessary oversight of such polices and procedures, designed to ensure that Defendants are complying will all statutory requirements regarding Solicitation Notices and campaign financial reports. Such compliance includes, but is not limited to, that any such Solicitation Notices and campaign finance reports are completed and submitted for approval to the Colorado Secretary of State in a timely fashion. At a minimum, such policies and procedures shall include:

a. Designating a responsible staff person with specific responsibility to ensure compliance with the requirements of this Final Judgment;

b. Training for any other employee, agent, or independent contractor of Defendants whose work includes the preparation of Solicitation Notices or campaign financial reports for filing in the State of Colorado, or the actual solicitation of Colorado consumers or businesses in connection with any solicitation campaign. As part of such training, Defendants shall provide those employees, agents, and independent contractors with a copy of this Stipulated

Final Judgment and shall provide reasonable instruction regarding the requirements therein; and

c. Specific mechanisms designed to ensure that no solicitation campaign in Colorado is commenced by Defendants, or by any call-center or similar facility acting on behalf of Defendants, before the expiration of fifteen days after a completed Solicitation Notice for that campaign is approved by the Colorado Secretary of State.

MONETARY RELIEF

5. Defendants, jointly and severally, shall pay to the State of Colorado one hundred thousand dollars (\$100,000) as a civil penalty pursuant to Colo. Rev. Stat. § 6-1-112(1) (2006).

6. The first fifty thousand dollars (\$50,000) of such civil penalty shall be payable by Defendants in twelve (12) equal monthly installments commencing with the entry of this Stipulated Final Judgment. These payments shall be made payable to the Colorado Department of Law, with a reference to “Xentel Litigation”, and shall be delivered to:

Jan M. Zavislan
Deputy Attorney General
Consumer Protection Section
1525 Sherman Street – 7th Floor
Denver, Colorado 80203

7. The remaining fifty thousand dollars (\$50,000) of such civil penalty shall be held in abeyance by the Court so long as Defendants remain in compliance with this Stipulated Final Judgment. For purposes of this provision:

a. Defendants will make good faith efforts to comply with this Stipulated Final Judgment;

b. Upon written notice from the Colorado Attorney General or the Colorado Secretary of State of any violation of § 6-16-104.6(7) or § 6-16-104.6(9), C.R.S. (2007), regarding a Solicitation Notice or campaign finance report, Defendants shall immediately cease any solicitation activities affected by an incomplete or untimely Solicitation Notice or campaign finance report; and

c. After receiving such written notice, Defendants make every reasonable effort to correct any deficiencies in a Solicitation Notice or campaign finance report giving rise to such written notice within thirty (30) calendar days.

8. If, after written notice and a thirty (30) day right to cure a material violation by Defendants of this Stipulated Final Judgment, the State of Colorado is entitled to make an immediate application to this Court for imposition of the remaining \$50,000 in civil penalties held in abeyance by this Stipulated Final Judgment. In making such application, the State of Colorado need only establish that a violation of this Stipulated Final Judgment has occurred and that Defendants have failed to cure such violation within thirty (30) days after receiving written notice of such violation.

a. For purposes of this paragraph, a “material violation” shall mean a continued pattern and practice of violations of this Final Judgment after Defendants have received a written notice and an opportunity to cure.

CONSIDERATION

9. Defendants Xentel, Inc. and Xentel America, Inc. are entering into this Stipulated Final Judgment for the purpose of compromising and resolving disputed claims and to avoid the expense of litigation. Defendants’ execution of this Stipulated Final Judgment shall not be considered an admission by Defendants, and nothing herein shall be construed as an admission of liability by Defendants. Nothing herein constitutes approval by the State of Colorado of Defendants’ past or future practices, and Defendants shall not make any representation to the contrary.

10. This Stipulated Final Judgment is intended to resolve finally and fully all of the civil disputes between the Attorney General and Defendants Xentel, Inc. and Xentel America, Inc. arising out of the conduct alleged in the Complaint. This Stipulated Final Judgment shall not be construed to affect any claims by the Attorney General against any other Defendants, named or unnamed, or against any other individuals or entities regarding the conduct alleged in the Complaint.

11. Each party will pay its own costs and attorney fees.

RETENTION OF JURISDICTION

12. This Court shall retain jurisdiction of this matter for a period of five (5) years for the purpose of enabling any party to this Stipulated Final Judgment to apply to the Court at any time for any further orders which may be necessary or appropriate for the construction, modification or execution of this Stipulated Final Judgment, and for the enforcement of compliance herewith and the punishment of violations hereof.

13. This Stipulated Final Judgment shall not be construed to affect the rights of any private party to pursue remedies pursuant to Colo. Rev. Stat. § 6-1-113 (2006) of the

CCPA, Colo. Rev. Stat. § 6-16-111(5) (2006) of the CCSA, or under any other statutes through actions in common law.

ACKNOWLEDGMENT

14. Defendants Xentel, Inc. and Xentel America, Inc. acknowledge that they have thoroughly reviewed this Stipulated Final Judgment, that they have had an opportunity to consult with an attorney, that they understand and agree to its terms, and that they agree that it shall be entered as the Order of this Court.

STATE OF COLORADO

XENTEL, INC and XENTEL AMERICA, INC.

/s/ Jan Michael Zavislan
Jan Michael Zavislan, 11636
Deputy Attorney General
Consumer Protection Section
1525 Sherman Street, 5th Floor
Denver, CO 80203
PHONE: (303) 866-5079
FAX: (303) 866-4745

/s/ David H. Goldberg
David H. Goldberg, 13243
Schwartz & Goldberg
1200 Seventeenth Street, Suite 2190
Denver, CO 80202
PHONE: (303) 893-2500
FAX: (303) 893-3349

Attorney for Plaintiffs

Attorney for Defendants

Dated: March 20, 2008

Dated: March 20, 2008

SO ORDERED THIS _____ DAY OF _____, 2008.

District Court Judge

Pursuant to C.R.C.P. 121, § 1-26(9), the original of this document with original signatures is maintained in the offices of the Colorado Attorney General, 1525 Sherman Street, Denver, CO 80203, and will be made available for inspection by other parties or the Court upon request.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **STIPULATED FINAL JUDGMENT AS TO ALL DEFENDANTS** upon all parties herein through Lexis/Nexis File & Serve this 20th day of March, 2008:

David H. Goldberg, Esq.
1200 17th Street, Suite 2190
Denver, Colorado 80202

/s/ Jan Michael Zavislan _____

This document constitutes a ruling of the court and should be treated as such.

Court: CO Denver County District Court 2nd JD

Judge: Norman D Haglund

File & Serve

Transaction ID: 19070682

Current Date: Mar 21, 2008

Case Number: 2006CV9437

Case Name: ST OF COLO et al vs. XENTEL INC et al

/s/ **Judge Norman D Haglund**